

In the United States District Court
For the Northern District of West Virginia
Martinsburg

United States of America
Plaintiff

Criminal No. 3:11-CR 54-02
(Bailey)

v.

Josephine Artillaga Adams
Defendant

Declaration in Support of the Motion to Dismiss the
Indictment or in the Alternative a Motion for a New Trial

- 1) In regards to all of the counts in the indictment I have evidence and I can provide testimony that will establish that Josephine Artillaga Adams is actual innocence of all counts in the indictment.
- 2) I don't know how much detail is required in a declaration in support of the motion to dismiss the indictment or in the alternative a motion for a new trial but I can provide the when, where, who what and why that proves Josephine Artillaga Adams is actually innocent of all charges.

(2)

- 3) I can provide evidence that Josephine Artillaga Adams is innocent of each and every count in the indictment
- 4) I am willing to meet with and discuss each and every count in the indictment with the defense attorneys, the Judge and the U.S. Attorney, so that a more detailed motion to dismiss the indictment or in the alternative a motion for a new trial can be prepared.
- 5) I can explain how on or about Dec. 11, 2008 two (2) large cash deposits were made into the account of the law firm Coburn and Coffman.
- 6) One of the cash deposits was for \$25,000.00 and the second cash deposit was for \$28,000.00
- 7) I can explain how these large cash deposits were derived from checks that were cashed.
- 8) I can explain that the cash was promptly wired to the U.S. Attorney / U.S. Marshal by the law firm of Coburn and Coffman.
- 9) I can explain how the \$25,000.00 in cash was added to \$28,000.00 in cash was added to \$87,000.00 in cash for a total of \$140,000.00 in cash wired to the U.S. Attorney / U.S. Marshal.

(3)

- 10) I can explain how this \$140,000.00 in cash is related to counts:
ONE, two, thirteen, fourteen, fifteen and sixteen of the indictment.
- 11) This will establish Josephine Artillaga Adams innocence, because the \$140,000.00 in cash was given to the government on or about December 11, 2008.
- 12) I can explain for many if not all of the counts there could be no knowledge of the events by Josephine Artillaga Adams.
- 13) I can explain how there could be no mens rea by Josephine Artillaga Adams.
- 14) I can explain how there was no fraud, no conspiracy, no obstruction and no aiding and abetting by Josephine Artillaga Adams.
- 15) I can explain Josephine Artillaga Adams' actual innocence.
- 16) I can explain the when, where, who, what and why that proves the actual innocence of Josephine Artillaga Adams.

(4)

- 17) I can explain how there was at least ten (10) written requests to my attorneys and others to direct Mr. Leary to file a motion to dismiss the indictment for pre-indictment delay because of the loss of my testimony and the five (5) year delay from the secret 2006 investigation to the September 7, 2011 indictment.
- 18) I can explain how I repeatedly requested an evidentiary hearing to determine if I am competent to waive my 5th amendment rights for the November 2011 trial.
- 19) I offered numerous times to undergo an evaluation by any expert in psychology or psychiatry chosen by Mr. Leary and/or Mr. Compton so that I could be cleared to testify at the November 2011 trial and for any other reason Mr. Leary or Mr. Compton needed.
- 20) I am able to explain that with the help of people I met in the law library that the jury instructions for "willfully blind" are wrong and unconstitutional because they do not meet the requirements of a 2011 U.S. Supreme Court 8-1 decision on "willfully blind".
- 21) I am able to explain that with the help of people I met in the law library that the jury instructions

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are wrong and unconstitutional for conspiracy.

22) I am able to explain that with the help of people I met in the law library that I am able to put this declaration together in writing.

23) I can explain and provide the evidence and testimony including the when, where, who what and why that proves the actual innocence of Josephine Artllaga Adams.

Under penalty of perjury.

Barton J. Adams

Dated: November 28, 2011

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